

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WOODSON DAVENPORT,
Plaintiff,

v.

09-CV-0875

DALE ARTUS, Superintendent, Clinton Correctional Facility; DEP. TURNER, Deputy Superintendent, Clinton Correctional Facility; PAT SMITH, Superintendent, Corcraft Industries at Clinton Correctional Facility; M. VANN, Assistant Deputy Superintendent; CAPTAIN BROWN, Clinton Correctional Facility; and C.O. STICKLE, all individually and in their official capacities,

Defendants.

THOMAS J. McAVOY
United States District Judge

DECISION and ORDER

This *pro se* civil rights action for violations of the Civil Rights Act, 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc et seq., was referred to the Hon. David R. Homer, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The Report-Recommendation dated January 10, 2011 recommended that: (1) the Defendants' motion for summary judgment be granted; (2) the Plaintiff's cross-motion for summary judgment be denied; and, that (3) Plaintiff's motion to compel

de denied. Plaintiff filed timely¹ objections to the Report-Recommendation, essentially raising the same arguments presented to the Magistrate Judge.

When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

Having reviewed the record de novo and having considered the issues raised in the Plaintiff's objections, this Court has determined to accept and adopt the recommendation of Magistrate Judge Homer for the reasons stated in the Report-Recommendation.

It is therefore ORDERED that:

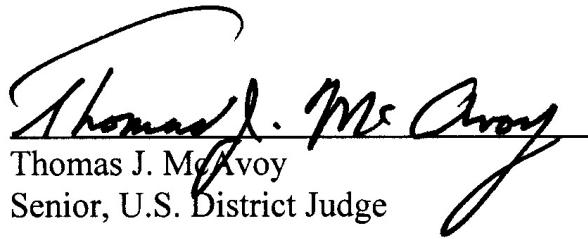
1. Defendants' Motion for Summary Judgement (Dkt. No. 33) is GRANTED and Plaintiff's Complaint is DISMISSED in its entirety;
2. Plaintiff's cross-motion for summary judgment (Dkt. No. 34) is DENIED; and,
3. Plaintiff's motion to compel (Dkt. No. 28) is DENIED.

¹In Houston v. Lack, 487 U.S. 266, 270-71 (1988), the Supreme Court crafted the prisoner mailbox rule, providing that the date on which a *pro se* prisoner transmits documents to prison authorities for mailing is considered the actual filing date. Id. at 275. Although the docket reflects a filing date of January 27, 2011, the Court will assume that Plaintiff turned his complaint over for mailing the same day he signed it - January 24, 2011.

The Clerk of the Court shall close the file in this matter.

IT IS SO ORDERED.

Dated: February 8, 2011


Thomas J. McAvoy
Senior, U.S. District Judge